IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ petition No. 1671 (SS) of 2007

Gopal Dutt Joshi,
aged about 55 years,
S/o late Kashi Ram Joshi,
R/o 113, Awas Vikas Colony,
Veer Bhadra Marg, Rishikesh,
District – Dehradun. **…….Petitioner.**

Versus

1. State of Uttarakhand through Secretary, Education, Uttarakhand Shasan, Dehradun.
2. Director of School Education, Uttarakhand, Dehradun.
3. District Education Officer, Dehradun.

……. Respondents.

Hon'ble M.M. Ghildiyal, J

Heard Sri Subhash Upadhyay, learned counsel for the petitioner and Sri N.P. Shah, learned Standing Counsel for the State of Uttarakhand on behalf of respondents.

By means of this writ petition, petitioner has prayed for the following relief:

i. *Issue a writ, order or direction in the nature of Certiorari calling for the record and quashing the impugned order dated 12.11.2007 passed by respondent no. 3 (Annexure No. 6 to the writ petition).*

ii. *Issue a writ, order or direction in the nature of ad interim Mandamus staying the effect and operation of the impugned order dated 12.11.2007 passed by respondent no. 3 (Annexure No. 6 to the writ petition).*

iii. *Issue a writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

iv. *Award the cost in favour of the petitioner.*

The Stand of the petitioner is that petitioner, who is working as Principal, has been transferred by the Director, School Education vide order dated 05.10.2007 from Government Higher Secondary School, Pashulok, Dehradun to Government Inter College, Gaja, Tehri. On 26.10.2007, Secretary, Education, State of Uttarakhand has passed order transferring one Sri Sunil Singh Bisht, who was working as Principal in Government Inter College, Raiwala, Dehradun to Government Inter College, Jahrikhal, Pauri. In the transfer order, it is specifically mentioned that the incumbent must join at the new place of posting within 15 days, failing which he will deem to be relieved.

On 01.11.2007, Director of School Education modified his earlier order dated 05.10.2007 and directed the petitioner to join Government Inter College, Raiwala, Dehradun. A rider was also fixed in the transfer order that petitioner will join at Raiwala when Principal – Sri Sunil Singh Bisht, will be relieved from Raiwala.

According to the petitioner, in the transfer order passed by Secretary Education, it was specifically mentioned that Sri Sunil Singh Bisht deem to have been relieved after 15 days, as such, petitioner is entitled to join in Government Inter College, Raiwala. Petitioner has already submitted his joining report on 06.11.2007, however, on 12.11.2007, District Education Officer, Dehradun, directed the petitioner to work in the same institution from where he was relieved.

District Education Officer, Dehradun was called by this Court. He has informed this court that Sri Sunil Singh Bisht and 8 other persons, who were transferred from one place to another, are handicapped and they have made representation against their transfer order and Director of School Education has forwarded the matter to the Secretary with his recommendation to stay their transfer on 07.11.2007. In these circumstances, petitioner is not being permitted to work as Principal, Government Inter College, Raiwala. The matter is still pending before Secretary, School Education.

Secretary, Education is directed to take decision on the recommendation sent by the Director, School Education by or before 15.12.2007 and in case, recommendation made by Director of School Education, is accepted, the Competent Authority shall pass appropriate order for joining of the petitioner at any other suitable place, in case, some other person has already joined at Government Inter College, Gaja, Tehri. While passing fresh order the Competent Authority shall also pass order for salary of the petitioner for this period from the Institution where he will join.

With this direction, writ petition as well as all the pending applications are disposed of. No order as to costs.

(M.M. Ghildiyal, J)

December 6, 2007
SKS